

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

LEE HARTWELL,)	Case No.: 2:06-CV-518
)	
Plaintiff,)	CITY OF MONTGOMERY’S AND
)	KELLY GORDON’S, MOTION FOR
vs.)	LEAVE TO SUPPLEMENT THEIR
)	MOTION FOR SUMMARY JUDGMENT
THE CITY OF MONTGOMERY and THE)	
PERSONNEL BOARD FOR THE CITY AND)	
COUNTY OF MONTGOMERY, and KELLY)	
GORDON)	
)	
Defendants.)	
)	
)	
)	

COME NOW the city of Montgomery and Kelly Gordon, by and through undersigned counsel, and move this Honorable Court to allow them to supplement their Motion for Summary Judgment after the deadline for filing thereof with the proposed Supplemented Motion for Summary Judgment attached hereto as Exhibit A, (the supplemented portion being in bold beginning on page 14) and as grounds therefore show as follows:

1. That the deadline for filing dispositive motions was 90 days prior to the pretrial hearing (January 5, 2007);
2. That the discovery deadline was March 15, 2007;
3. That the defendants took the deposition of the plaintiff on March 13, 2007, at which time the plaintiff gave testimony disavowing a claim of racial animus against Kelly Gordon in this case;
4. That the defendants received the rushed transcript of the said deposition on April 2, 2007, the day before the filing of this motion;

WHEREFORE, the above premises considered, the above-named defendants move this Honorable Court to allow its Supplemented Motion for Summary Judgment for the purpose of arguing the propriety of summary judgment on the plaintiff's Fourteenth Amendment Equal Protection §1983 claim in light of the recent testimony given.

Respectfully submitted,

/s/ Wallace D. Mills
Wallace D. Mills (MIL 090),
Attorney for the City of Montgomery

OF COUNSEL:
City of Montgomery Attorney's Office
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of April, 2007, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

J. Bernard Brannan, Jr., Esq.
P.O. Box 307
Montgomery, AL 36101

Robert D. Segall
Copeland, Franco, Screws & Gill, P.A.
P.O. Box 347
Montgomery, AL 36101-0347

and I hereby certify that I have also mailed by United States Postal Service the document to the above-named non-CM/ECF participants:

/s/ Wallace D. Mills
OF COUNSEL